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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/597,179 06/20/00 ROONEY

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EXAMINER

QM32/0410

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ART UNIT

PAPER NUMBER

3736  
DATE MAILED:

04/10/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
09/597,179

Applicant(s)  
Rooney et al.

Examiner  
Pamela L. Wingood

Group Art Unit  
3736



☒ Responsive to communication(s) filed on Amendment B filed 1.29.01

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 22-26 and 28-33 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 22-26, 28-30, and 33 is/are rejected.

☒ Claim(s) 31 and 32 is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 5

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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## DETAILED ACTION

### *Claim Rejections - 35 U.S.C. § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 22-26, 30 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morrison et al in view of Deem.

Morrison et al discloses a guidewire having a tapered core of carbon steels as well as titanium (Col. 2, lns. 5-10), and a varied pitched coil (Figs. 2 and 3) including a distal end(13) (Col. 2, lns. 64-68) composed of stainless steel (Col. 2, lns. 6), having a circular-cross section and extending the entire length of the guidewire (Fig. 1, Col. 2, lns. 64-68), and at (19) a brazing compound to secure the coils to the core; however it does not disclose a core of a nickel titanium alloy.

Deem discloses a core of a nickel titanium alloy in an analogous art for the purpose of achieving the desired properties of a core such as strength and torquability. (Col. 3, lns.30-39). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have modified the device of Morrison et al. as shown by Deem because the use of a nickel titanium alloy is known to impart desired characteristics to the guidewire.

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3. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Morrison et al. and Deem as applied to claims 22-26, 30 and 33 above and further in view of Beisel.

Morrison et al. and Deem discloses the limitations above but does not disclose a precipitation hardened alloy as the second material.

Beisel discloses a device having a coil of a precipitation hardened alloy (Col. 12, lns. 27-32) in an analogous art for the purpose of imparting desirable properties. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the device of Morrison et al. as shown by Beisel because the treatment of the coils would impart desired coil stiffness and torquability to the device.

#### ***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

5. Salmon et al (5,458,585) discloses a catheter device with a precipitation hardened coil.

#### ***Allowable Subject Matter***

5. Claims 31 and 32 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

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6. Applicant's arguments with respect to claims 22-26 and 28-30 and 33 and have been considered but are moot in view of the new ground(s) of rejection.

The newly applied reference of Deem discloses the use of nickel titanium alloy for a core and describes the use of the material as conventional.

Also, Applicant's argument that the guidewire does not surround a substantial portion of the core is not correct because coil (13) covers from the proximal portion of the device to a point at the distal part of the device.

Any questions regarding this application can be addressed to Pamela Wingood who can be reached on (703)308-2676.

Pamela Wingood

Patent Examiner

April 7, 2001

Robert L. Nasser  
ROBERT L. NASSER  
PRIMARY EXAMINER